

37 Am. Jur. 2d Fraud and Deceit § 133

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Fraud and Deceit

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IV. False Representations

F. Intent to Deceive, or to Induce Reliance; Knowledge of Falsity

3. Particular Kinds of Representations, Transactions, Relief, etc.

c. Transactions

§ 133. Exchange of property

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  [13\(3\)](#)

Forms

[Am. Jur. Pleading and Practice Forms, Fraud and Deceit §§ 193 to 196](#) (Complaints, petitions, or declarations—Fraud in exchange transactions)

As a rule, in order to constitute fraud, a party to an exchange transaction must have made representations with an intent to deceive, either knowing the representations to be false or making them in culpable ignorance of their truth or falsity.¹ However, a positive misrepresentation made in the exchange of real property for other realty or for personalty may amount to fraud not only where it was made knowingly² but also where it was made innocently although carelessly and recklessly³ without knowledge of its falsity.⁴ In such a case the definite assertion as a fact of that which is untrue concerning that of which the party has no knowledge is tantamount in its effects to the assertion of something which the party knows to be untrue.⁵

In an action for damages for fraudulent representations inducing an exchange of land for corporate stock, it has been held that fraud may be predicated upon a false statement respecting the value of the property in which the capital of the corporation was invested, even though the defendant believed the statement to be true when the defendant made it.⁶

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Footnotes

- 1 [McMeen v. Whipple](#), 23 Ill. 2d 352, 178 N.E.2d 351 (1961).
- 2 [Kincaid v. Tant](#), 180 S.W. 1103 (Tex. Civ. App. Fort Worth 1914).
- 3 [Rhodes v. Uhl](#), 189 Iowa 408, 178 N.W. 394 (1920).
- 4 [Aldrich v. Scribner](#), 154 Mich. 23, 117 N.W. 581 (1908); [Beatty v. Bulger](#), 28 Tex. Civ. App. 117, 66 S.W. 893 (1902).
- 5 [Howe v. Martin](#), 1909 OK 105, 23 Okla. 561, 102 P. 128 (1909).
- 6 [Romine v. Thayer](#), 74 Ind. App. 536, 128 N.E. 456 (1920).

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